PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Ted Christopher   Examiner: F. Jaworski

Serial No.: 08/746,360   Art Unit: 3305

Filed: November 8, 1996   Docket: 9872

For: FINITE AMPLITUDE DISTORTION-BASED Dated: September 2, 1999
      INHOMOGENEOUS PULSE ECHO
      ULTRASONIC IMAGING

Assistant Commissioner for Patents
Washington, DC 20231

Attn: Mr. Fred Silverberg
           Special Program Law
           Office of the Office
           of the Deputy
           Assistant Commissioner for
           Patent Policy and Projects

PETITION UNDER 37 C.F.R. §1.182,
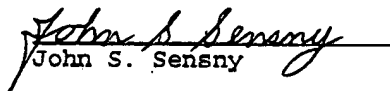OR IN THE ALTERNATIVE, UNDER 37 C.F.R. §1.183

Sir:

Applicant hereby petitions the Commissioner, under 37

C.F.R. §1.182, to have the Examiner reconsider the

determination that a prima facie case has been made of prior

public use of the invention claimed in the subject patent

application. This determination was made in connection with a

Petition to institute a public use proceeding.

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile
transmitted to the Patent and Trademark Office on the date
shown below.

Dated: September 2, 1999   _John S. Sensny_
                                  John S. Sensny

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Applicant is at this time submitting to the Examiner
a formal request that the Examiner reconsider that
determination. Applicant's request contains a careful analysis
of the materials relied on by the Examiner and of the relevant
legal issues, and explains in detail why the determination
should be reconsidered and withdrawn.

The Examiner's determination of a <u>prima facie</u> case of
prior public use is a necessary condition to the institution of
the public use proceeding. Such a proceeding would be a
significant burden, both in time and cost, to the Applicant and
to the Patent Office. Moreover, any delay, caused by the
public use proceeding, in the issuance of a patent for
Applicant's invention is likely to result in a reduction of the
term of that patent.

At the same time, it appears that the regulations are
<u>completely void</u> of <u>any</u> procedure that provides for <u>any</u> review
or reconsideration of the Examiner's determination. It is
noted that a hearing has been scheduled for September 9, 1999
to determine whether public use proceeding should be
instituted. However, during a telephone conference on July 29,
1999 with Mr. Silverberg of the Petitions Branch, Applicant's
Attorneys were advised that the Examiner's determination of a
prima facie case of prior public use would not be considered or
reviewed at this hearing.

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Applicant submits that it is appropriate and prudent to have administrative review or reconsideration of the Examiner's decision before the Patent Office initiates a lengthy and expensive public use proceeding. In addition, Applicant submits that administrative due process requires that Applicant have the right for review or reconsidered of the Examiner's decision in some forum in the Patent and Trademark Office.

Applicant is not aware of any regulation that prohibits the Examiner from reconsidering the determination of prior public use. In the event, however, that some regulation does prohibit that reconsideration, Applicant requests that this Petition be considered as a Petition under 37 C.F.R. §1.183 to waive or suspend such regulation, for the reasons set forth above, and to allow the Examiner to reconsider the determination.

A Petition Fee in accordance with 37 C.F.R. §1.17(h), in the amount of $130.00 is hereby authorized to be charged to Deposit Account Number 19-3886. A duplicate copy of this Authorization is transmitted herewith.

Respectfully submitted,

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Registration No. 28,757

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